

**STATE OF NEW MEXICO  
NEW MEXICO WATER QUALITY CONTROL COMMISSION**

**In the Matter of:**

**PROPOSED AMENDMENTS TO  
STANDARDS FOR INTERSTATE AND  
INTRASTATE WATERS,  
20.6.4 NMAC**

**No. WQCC 20-51 (R)**

**AMIGOS BRAVOS' NOTICE OF FILING REQUESTED ADDITIONS TO HEARING  
OFFICER'S REPORT**

On December 30, 2021, the Hearing Officer held argument on Amigos Bravos' Motion to Strike LANL's Proposed Amendment to 20.6.4.14.A NMAC and Motion to Strike LANL's Proposed Amendment to Definition of "Toxic Pollutant" at 20.6.4.7.T(2) NMAC. During the hearing, the Hearing Officer requested Amigos Bravos to submit a paragraph summarizing each of its motions. Amigos Bravos' proposed paragraphs summarizing the two motions are below:

**Motion to Strike LANL's Amendment to 20.6.4.14.A NMAC<sup>1</sup>**

Amigos Bravos moved to strike an amendment to 20.6.4.14.A NMAC first proposed by LANL in its post-hearing brief. Amigos Bravos moved to strike the following highlighted language on the ground that there is **no** evidence in the record to support the proposal and because the parties had no opportunity to cross-examine any witness on the meaning and effect of the proposed language. *See* NMSA 1978, §§ 74-6-7.B(2), 74-6-6.D.

**20.6.4.14 SAMPLING AND ANALYSIS:**

A. 40 CFR Part 136 approved methods shall be used to determine compliance with these standards and in Section 401 certifications under the federal Clean Water Act. In cases of pollutants and pollutant parameters for which there are no approved methods under 40 CFR Part 136, analyses shall be conducted according to a test procedure specified in the applicable permit or 401 certification. Where 40 CFR Part 136 approved methods are not required, sampling ~~sampling~~ and analytical techniques shall conform with methods described in the following references unless otherwise specified by the commission pursuant to a petition to amend these standards: . . . .<sup>2</sup>

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<sup>1</sup> In the motion, Amigos Bravos also moved to strike language from federal regulation that LANL misquoted in its post-hearing brief. LANL conceded the point, and corrected its error in its Second Notice of Errata to LANL's Closing Argument at ¶ 4.

<sup>2</sup> LANL's proposed amendment is shown in underline and strikeout. It's newly proposed language can be found at LANL's Proposed Final Amendments at 7-8 and LANL added the

Amigos Bravos detailed in its motion why there is no evidence in support. Amigos Bravos maintains in its reply that LANL did not attempt to cite to evidence in support in LANL's response.

Amigos Bravos further contends that LANL's proposed language does not verbatim reflect the federal regulations relating at 40 CFR § 122.44, as alleged by LANL, and the language is ambiguous (1) whether non-Part 136 Methods may be used to determine compliance with federal permits and state water quality standards and (2) whether EPA Method 1668C, which tests for PCBs at the lowest numeric water quality standards established by the Water Quality Control Commission, is authorized, since there was no opportunity to cross-examine any witness on this proposal.

NMED joined in support of the motion to strike.

**Amigos Bravos' Motion to Strike LANL's Proposed Amendment to Definition of "Toxic Pollutant" at 20.6.2.7.T(2) NMAC**

Amigos Bravos moved to strike an amendment to the definition of "toxic pollutant" at 20.6.4.7.T(2) NMAC first proposed by LANL in its post-hearing brief. Amigos Bravos moved to strike on the ground that there is **no** evidence in the record to support the proposal and because the parties had no opportunity cross-examine any witness on the meaning and effect of the proposed language. *See* NMSA 1978, §§ 74-6-7.B(2), 74-6-6.D. Amigos Bravos moved to strike LANL's proposed:

- List of "persistent toxics listed in 20.6.4.900.J NMAC,"
- List of two "PFAS compounds" with accompanying footnote 1 stating that PFAS compounds do not apply to waters with limited aquatic life use,
- List of "toxic pollutants" in 20.6.2.7 NMAC and accompanying footnote 2, stating that the toxic pollutants in 20.6.2.7 NMAC apply only to domestic water supply use, with the exception of PFAS compounds.

Amigos Bravos' Exhibit A to the motion highlights the portions of LANL's proposal to which Amigos Bravos objects, and is attached hereto.

Amigos Bravos detailed in its motion why there is no evidence in support and detailed in its reply why the evidence cited to in LANL's response does not support its proposal.

NMED, Communities for Clean Water, and Gila Resources Information Project joined in support of the motion to strike.

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words "and pollutant parameters" to its proposal in its Second Notice of Errata to LANL's Closing Argument at ¶ 3.

Respectfully submitted,

/s/ Tannis Fox

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Certificate of Service

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**STATE OF NEW MEXICO  
BEFORE THE WATER QUALITY CONTROL COMMISSION**

**IN THE MATTER OF:**

**PROPOSED AMENDMENTS TO  
STANDARDS FOR INTERSTATE AND  
INTRASTATE SURFACE WATERS,  
20.6.4 NMAC**

**No. WQCC 20-51 (R)**

**TRIAD NATIONAL SECURITY, LLC  
AND THE UNITED STATES DEPARTMENT OF ENERGY'S  
CLOSING ARGUMENT**

September 24, 2021

AB Ex. A

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5 **S. Terms beginning with the letter "S".**  
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7 \* \* \*

8  
9 (5) **"Sufficiently sensitive"** means any method approved under 40 CFR part  
10 136 for the analysis of pollutants or pollutant parameters for which (1) the method minimum level  
11 (ML) is at or below the level of the effluent limit established in the permit; or (2) the method has  
12 the lowest ML of the analytical methods approved under 40 CFR part 136 for the measured  
13 pollutant or pollutant parameter.  
14

15  
16 **T. Terms beginning with the letter "T".**  
17

18 \* \* \*

19  
20 (2) **"Toxic pollutant"** means those pollutants, or combination of  
21 pollutants, including disease-causing agents, that after discharge and upon exposure,  
22 ingestion, inhalation or assimilation into any organism, either directly from the environment  
23 or indirectly by ingestion through food chains, will cause death, shortened life spans, disease,  
24 adverse behavioral changes, reproductive or physiological impairment or physical  
25 deformations in such organisms or their offspring, listed by the EPA Administrator under  
26 section 307(a) of the federal Clean Water Act, 33 U.S.C. § 1313(a) or in the list below.  
27

28 ***Persistent Toxics listed in 20.6.4.900.J NMAC***  
29

30 ***Antimony, dissolved (CAS 7440-36-0)***

31 ***Arsenic, dissolved (CAS 7440-38-2)***

32 ***Methylmercury (CAS 22967-92-6)***

33 ***Nickel, dissolved (CAS 7440-02-0)***

34 ***Selenium, dissolved (CAS 7782-49-2)***

35 ***Thallium, dissolved (CAS 7440-28-0)***

36 ***Zinc, dissolved (CAS 7440-66-6)***

37 ***Aldrin (CAS 309-00-2)***

38 ***Benzo(a)pyrene (CAS 50-32-8)***

39 ***Chlordane (CAS 57-74-9)***

40 ***4,4'-DDT (CAS number 50293)***

41 ***4,4'-DDE (CAS number 72559)***

42 ***4,4'-DDD (CAS number 72548)***

43 ***Dieldrin (CAS 60-57-1)***

44 ***Dioxin***

45 ***Hexachlorobenzene (CAS 118-74-1)***

46 ***Polychlorinated Biphenyls (PCBs) (CAS 1336-36-3)***

47 ***Tetrachloroethylene (CAS 127-18-4)***  
48

**Exhibit A**

LANL's Final Proposed Amendments to 20.6.4 NMAC

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AB Ex. A

2020 TR LANL-02209



1 PFAS Compounds<sup>1</sup>

2 *Perfluorooctanoic acid (PFOA) (CAS 335-67-1)*

3 *Perfluorooctane sulfonate (PFOS) (CAS 1763-23-1)*

4  
5 Toxic Pollutants listed in 20.6.2.7 NMAC<sup>2</sup>

6  
7 *acrolein (CAS 107-02-8)*

8 *benzene and alkylbenzenes*

9 *benzene (CAS 71-43-2)*

10 *toluene (methylbenzene) (CAS 108-88-3)*

11 *ethylbenzene (CAS 100-41-4)*

12 *xylene (dimethyl benzene isomers): o-xylene (CAS 95-47-6); m-xylene (CAS 108-38-3)*

13 *and p-xylene (CAS 106-42-3)*

14 *styrene (ethenylbenzene) (CAS 100-42-5)*

15 *chlorinated benzenes*

16 *monochlorobenzene (CAS 108-90-7)*

17 *1,2-dichlorobenzene (ortho-dichlorobenzene) (CAS 95-50-1)*

18 *1,4-dichlorobenzene (para-dichlorobenzene) (CAS 106-46-7)*

19 *1,2,4-trichlorobenzene (CAS 120-82-1)*

20 *1,2,4,5-tetrachlorobenzene (CAS 95-94-3)*

21 *Pentachlorobenzene (CAS 608-93-5)*

22 *hexachlorobenzene (CAS 118-74-1)*

23 *chlorinated phenols*

24 *2,4-dichlorophenol (CAS 120-83-2)*

25 *2,4,5-trichlorophenol (CAS 95-95-4)*

26 *2,4,6-trichlorophenol (CAS 88-06-2)*

27 *pentachlorophenol (PCP) (CAS 87-86-5)*

28 *chloroalkyl ethers*

29 *bis (2-chloroethyl) ether (CAS 111-44-4)*

30 *bis (2-chloroisopropyl) ether (CAS 108-60-1)*

31 *bis (chloromethyl) ether (CAS 542-88-1)*

32 *1,2-dichloropropane (propylene dichloride, PDC) (CAS 78-87-5)*

33 *dichloropropenes (CAS 542-75-6)*

34 *1,4-dioxane (CAS 123-91-1)*

35 *halogenated ethanes*

36 *1,2-dibromoethane (ethylene dibromide, EDB) (CAS 106-93-4)*

37 *1,1-dichloroethane (1,1-DCA) (CAS 75-34-3)*

38 *1,2-dichloroethane (ethylene dichloride, EDC) (CAS 107-06-2)*

39 *1,1,1-trichloroethane (TCA) (CAS 71-55-6)*

40 *1,1,2-trichloroethane (1,1,2-TCA) (CAS 79-00-5)*

41 *1,1,2,2-tetrachloroethane (CAS 79-34-5)*

42 *hexachloroethane (CAS 67-72-1)*

<sup>1</sup> Pollutants listed as PFAS compounds do not apply to waters with a limited aquatic life designated use.

<sup>2</sup> Toxic pollutants listed in 20.6.2.7 NMAC only apply to waters with a domestic water supply designated use, with the exception of the PFAS compounds listed above.

**Exhibit A**

LANL's Final Proposed Amendments to 20.6.4 NMAC

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AB Ex. A



1 **halogenated ethenes**

2 chlorothene (vinyl chloride) (CAS 75-01-4)

3 1,1-dichloroethene (1,1-DCE) (CAS 75-35-4)

4 trans-1,2-dichloroethene (trans-1,2-DCE) (CAS 156-60-5)

5 trichloroethene (trichloroethylene, TCE) (CAS 79-01-6)

6 tetrachloroethene (perchloroethylene, PCE) (CAS 127-18-4)

7 **halogenated methanes**

8 bromodichloromethane (CAS 75-27-4)

9 bromomethane (CAS 74-83-9)

10 chloromethane (CAS 74-87-3)

11 dichlorodifluoromethane (fluorocarbon-12) (CAS 75-71-8)

12 dichloromethane (methylene chloride) (CAS 75-09-2)

13 tribromomethane (bromoform) (CAS 75-25-2)

14 trichloromethane (chloroform) (CAS 67-66-3)

15 tetrachloromethane (carbon tetrachloride) (CAS 56-23-5)

16 trichlorofluoromethane (fluorocarbon-11) (CAS 75-69-4)

17 hexachlorobutadiene (CAS 87-68-3)

18 isophorone (CAS 78-59-1)

19 methyl tertiary-butyl-ether (MTBE) (CAS 1634-04-4)

20 **nitroaromatics and high explosives (HE)**

21 nitrobenzene (CAS 98-95-3)

22 2,4-dinitrotoluene (2,4-DNT) (CAS 121-14-2)

23 2,6-dinitrotoluene (2,6-DNT) (CAS 606-20-2)

24 octahydro-1,3,5,7-tetranitro-1,3,5,7-tetrazocine (HMX) (CAS 2691-41-0)

25 hexahydro-1,3,5-trinitro-1,3,5-triazine (RDX) (CAS 121-82-4)

26 2,4,6-trinitrotoluene (TNT) (CAS 118-96-7)

27 2,4-dinitro-o-cresol (CAS 534-52-1)

28 dinitrophenols (CAS 51-28-5)

29 **nitrosamines**

30 N-nitrosodiethylamine (CAS 55-18-5)

31 N-nitrosodimethylamine (CAS 62-75-9)

32 N-nitrosodibutylamine (CAS 924-16-3)

33 N-nitrosodiphenylamine (CAS 86-30-6)

34 N-nitrosopyrrolidine (CAS 930-55-2)

35 perchlorate (CAS 14797-73-0)

36 **perfluorinated-chemicals (PFCs)**

37 perfluorohexane sulfonic acid (PHHxS) (CAS 355-46-4)

38 Perfluorooctanesulfonic acid (PFOS) (CAS 1763-23-1)

39 perfluorooctanoic acid (PFOA) (CAS 335-67-1)

40 **pesticides**

41 Aldrin (CAS 309-00-2)

42 atrazine (CAS 1912-24-9)

43 chlordane (CAS 57-74-9)

44 dieldrin (CAS 60-57-1)

45 endosulfan (CAS 115-29-7)

**Exhibit A**

LANL's Final Proposed Amendments to 20.6.4 NMAC

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AB Ex. A

2020 TR LANL-02211



1 *endrin* (CAS 72-20-8)  
2 *heptachlor* (CAS 76-44-8)  
3 *hexachlorocyclohexane* (HCH, lindane): *alpha-HCH* (CAS 319-84-6); *beta-HCH* (CAS  
4 319-85-7); *gamma-HCH* (CAS 58-89-9); and, *technical-HCH* (CAS 608-73-1)  
5 *prometon* (CAS 1610-18-0)  
6 *toxaphene* (CAS 8001-35-2)  
7 *phenol* (CAS 108-95-2)  
8 *phthalate esters*  
9 *dibutyl phthalate* (CAS 84-74-2)  
10 *di-2-ethylhexyl phthalate* (DEHP) (CAS 117-81-7)  
11 *diethyl phthalate* (DEP) (CAS 84-66-2)  
12 *dimethyl phthalate* (DMP) (CAS 131-11-3)  
13 *polycyclic compounds*  
14 *benzidine* (CAS 92-87-5)  
15 *dichlorobenzidine* (CAS 91-94-1)  
16 *diphenylhydrazine* (CAS 122-66-7)  
17 *polychlorinated biphenyls* (PCBs) (CAS 1336-36-3)  
18 *polynuclear aromatic hydrocarbons* (PAHs)  
19 *anthracene* (CAS 120-12-7)  
20 *benzo(a)pyrene* (CAS 50-32-8)  
21 *3,4-benzofluoranthene* (CAS 205-99-2)  
22 *benzo(k)fluoranthene* (CAS 207-08-9)  
23 *fluoranthene* (CAS 206-44-0)  
24 *fluorene* (CAS 86-73-7)  
25 *naphthalene* (CAS 91-20-3)  
26 *1-methylnaphthalene* (CAS 90-12-0)  
27 *2-methylnaphthalene* (CAS 91-57-6)  
28 *phenanthrene* (CAS 85-01-8)  
29 *pyrene* (CAS 129-00-0)  
30 *thiolane 1,1 dioxide* (sulfolane) (CAS 126-33-0)

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34 **U. Terms beginning with the letter "U".**

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38 (2) "Use Attainability Analysis" means a structured scientific assessment of the  
39 factors affecting the attainment of the use, which include physical, chemical, biological, and  
40 economic factors as described in 40 CFR 131.10(g).

41 \* \* \*

42  
43 **20.6.4.10 REVIEW OF STANDARDS; NEED FOR ADDITIONAL STUDIES:**

44 **A.** Section 303(c)(1) of the federal Clean Water Act requires that the state hold  
45 public hearings at least once every three years for the purpose of reviewing water quality  
46 standards and proposing, as appropriate, necessary revisions to water quality standards.

47 **B.** In accordance with 40 CFR 131.10, when an existing use of a water, as defined  
48 under 20.6.4.7 NMAC, requires a higher level of protection than the current designated use and

**Exhibit A**